

Town of Copake Zoning Board of Appeals

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Meeting Minutes of May 23, 2019

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The meeting of the Zoning Board of Appeals of the Town of Copake was held on, May 23, 2019 at the Copake Town Hall, 230 Mountain View Road, Copake, NY.

1) Roll call:

The meeting was called to order at 7:00 PM by Jon Strom ZBA Chairman. Present were; Jon Strom, Jeffrey Judd, Michael Diperi, and Thomas Goldsworthy. Dionisio Fontana was absent.

Town Attorney, Ken Dow and Town Board Liaison, Stosh Gansowski were also present.

Veronique Fabio recorded the minutes.

An audience of about 16 was present.

2) Reading and approval of the minutes:

~ Jon Strom asked for a motion to accept the Minutes of April 25.

Michael Diperi made the motion, Jeffrey Judd seconded, and minutes of April 25, 2019 were unanimously accepted.

3) Correspondence:

The following correspondence will be reviewed as the applications come up.

4-29, 5-14 from Sanborn in ref. to Copake Camping Resort

5-06 Land Use Training offered May 15.

5-10 Training offered by the NYS DEPARTMENT OF STATE and the HUDSON RIVER ESTUARY PROGRAM

~ Jon Strom talked about the training he had just completed with the Hudson River Estuary Program. Thomas Goldsworthy also attended the 3hours session.

~ Thomas Goldsworthy suggested that a form letter be created and sent out for inquiries similar to that of Mr. Sanborn.

4) New Applications:

1) 2019-07, 11 Memory Lane, John Barbato, Tax Map 165.10-1-18

Modification of a non-conforming structure, Shed in the front yard, development within 100' of a body of water.

~ Ryan Walsh, partner to John Barbato was here and presented the project. Their house is on Copake Lake, it is a non-conforming house on a non-conforming lot. They would like to add a vestibule, and a bath at the front, also build a shed and pave an area at the front of the house.

The existing rear screen porch was poorly built and needs new footing. The owners would also like to increase its size by 2'.

An increase of the roof's pitch is planned as well.

~ Ryan Walsh noted that the foot print will remain the same after the proposed reovations.

He mentioned that stairs to go down to the lake are also part of the total project.

~ Jon Strom indicated to the applicant that detailed plans of the existing structure and the proposed additions are necessary to the ZBA members for the review.

~ Jeffrey Judd reiterated that the ZBA is not an advisory board and plans are needed. A lot of variances are requested on this project, the structure will be closer to the lake by 2', bump out towards the front and the north side of the lot as well.

~ Ryan Walsh noted that a variance would be necessary for structural work on the screen porch even if there was no other work done on the property.

There are no other options to locate the shed but in the front of the property.

Ryan Walsh also noted that the property is not in the water shed and a DEC permit is not required.

~ Jon Strom asked for a motion, Michael Diperi made the motion to accept the application for a public hearing for June 27, 2019, Jeffrey Judd second, all approved.

2019-08, 159 Golf Course Rd. Jack & Maria Zadrina, Tax Map 165.5-1-12
Development within 100' of a body of water.

~ Jack Zadrina presented his project, he would like to build a cantilevered dock in his back yard on Copake Lake.

The dock will extend 20 feet into the lake, with on shore, 2 sets of 10 feet beams that will be covered by concrete. There are no supports in the water.

The question of the proximity of the property with the town of Taghanic came up, The Columbia County Planning Board and the town of Taghanic might need to be notified.

Ken Dow read the exceptions to that rule for referrals.

A variance for development within 100' of the lake is necessary.

~ Jon Strom asked if the dock will be raised or removed from the water in winter.

~ Jack Zadrina responded that no, it will remain in the water, that's the idea of that type of dock where no maintenance is required.

~ Jon Strom asked about the finish look.

~ Jack Zadrina responded that the finish product will look like wood, but it will be an engineered material. Dale Phillips will do the job.

~ Jon Strom said that the ZBA needs more details on the project;

*Engineering plans with environmental protection strategy during construction of the dock and rendering of the look of the finish product.

*The location of the dock indicated on a survey and the distance to the lake.

~ Jack Zadrina said that he was not sure at the moment if he wanted to carry on with the project, as it appears more involved than he anticipated.

He will let the ZBA know if he is going to pursue the appeal.

2019-06 Copake Camping Resort, 2236 CR.7. Tax Map # 186.2-41

Appeal for additional sites and a Special Use Permit to operate year round.

The applicant is represented by Civil Engineer Richard Andreassen and Attorney Dan Huffenus.

~ Richard Andreassen noted that the proposed additional sites located within the Hamlet District were removed as a result the number of sites was reduced from 32 to 29.

~ Jon Strom asked if any non-road worthy campers will be allowed to remain on camp grounds.

~ Michael Diperi noted that restrictions on the length of stay will be needed. A number of people in the audience were allowed to take a stand and voice their remarks concerning the project.

~ Arnold Rodegerdts of 10 Walton Rd came up to take a closer look at the proposed plan. He really would like a fence installed between the camp and his property for privacy and to reduce noise.

~ Louise Pelle, introduced herself as not an abutter but an affected resident. She noted that what is happening is a commercial undertaking of a residential area, it will change the nature of the area. Music being blasted in the summer now could take place during the winter as well. More sites equals more traffic, people and waste. The quiet enjoyment of her property will be affected. There cannot be “spot zoning”, it is a residential area and she is very worried to alterations to the zoning laws.

~ Jeff Nayer lives about a mile away from the camp ground, he spoke as a concerned citizen and noted that the camp is already functioning year round. Families are residing there permanently, lights from the cabins can be seen all winter, and the school bus stops to pick up children. He asked if this is a Campground or some type of Air B& B. He believes extending the length of operation is okay, but not year round activity.

~ Tonya McCagg lives at the end of Tamarack Road, she asked if they were plans to use that road to bring in RVs to the campground.

~ Devan Singh asked if allowing this camp to remain open all year round would create a precedent for other campgrounds in the area, he is opposed to the year round operation.

~ Kevi Keeran of Tamarack Rd, asked if there will be ways to inspect the campground during operation and control who is there and for how long?

~ Jon Strom reminded him that the ZBA is not an enforcement board.

~ Jon Strom stated that a campground by definition is not a year round operation, so far no compelling argument was made to convince him of the necessity to change to yearly use.

~ Attorney for the owners, Dan Huffenus argued that there is a demand for year round use, the facility has the capacity to offer just that. The owners would take 10 months of operation if the 12 months request was denied. The new owners spent a substantial amount of money to improve the camp and would like to see a return on their investment.

- ~ Tom Goldsworthy expressed his concern and read the code concerning Campground regulations, and defined seasonal use as being 6 months.
- ~ Ken Dow indicated that an area variance can be applied for, to extend that period of operation beyond 6 month.
- ~ Stosh Gansowski added that Campground seasonal operation is typically from May to October.
- ~ Ken Dow noted that there need to be discontinuity in operation, a guaranty that the entire campground is vacated for a period of time.
- ~ Dan Huffenus recapped that a number of seasonal contractors stayed at the camp over the winter, they work at the new gas plant in Dutchess County near Pawling. 22 sites at the campground have waste and water pipes below the frost line and the owners are working with DEC and the Board of Health to meet all requirements.

- ~ Steve Sanborn of 2254 County Rt. 7, noted that he did not receive the notice to abutters from the ZBA. He also stated that the camp has been open all winter. Mr. Sanborn can see the lights from the campground shinning directly in his windows. He noted that the campground does adhere to the 10 o'clock noise ordinance.
- ~ Robert Chamberlin of 29 Tamarack Rd asked if there were any plans to use that road as access to the campground, he also mentioned that he had not received a notification of the public hearing from the ZBA.

- ~ Jeffrey Judd noted that tamarack Rd could be used for emergency access, first responders will use that road if necessary.

- ~ *Jon Strom asked to keep the hearing open and suggested a change of the variances requested and clarifying their demand for seasonal operation.*

2) 2019-05, 12 Stonewall Ridge, Tax Map 186.-1-14.200, Judith Church.

Area variance for the installation of an 8foot deer fence around the above mentioned property (3.77acres).

Judith Church was present.

~ *Michael Diperi made a motion to continue the public hearing that was opened last month, Jeffrey Judd seconded, all agreed.*

~ Judith Church indicated that she was moving the fenced area on County Rt. 27 to 38' from the center line of the road following the Columbia County recommendation, also setting back the fence on Stonewall Ridge Rd 25' from the center line of the road.

She reduced the height of the fence on Ct. Rt. 27 and Stonewall Ridge Rd t from 8' to 6', still keeping the back and the east side of her property at 8'.

The new drawing Mrs. Church submitted now shoes the fence going around her house instead of following the edge of the property line.

~ Attorney, Ken Dow read the details of the permitted actions by the ZBA; "The ZBA shall take in consideration the benefit to the applicant if the variance is granted versus the detriment to the neighborhood and or nearby properties". He stated that this is the ultimate question, how the nature of the area would be affected by the granting of a variance.

The granting of this variance would offer the applicant an economic benefit by allowing her to grow marketable fruit and vegetable crops.

The oversized fencing in a residential area would affect Mrs. Church's neighbor's enjoyment of their own properties.

~ Jeff Nayer commented on the option to use deer netting instead of tensile fencing.

~ Jon Strom asked for a motion, Michael Diperi made the motion to close the hearing, Jeffrey Judd seconded, all agreed.

Jon Strom indicated that the ZBA had 62 days before rendering a decision, but he believed that the members will be able to make a decision tonight.

He proceeded to read the 267-b Permitted action by board of appeals.

a. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.

b. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the board shall consider:

1; Whether an undesirable change will be produced in the character of the Neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

Answer: YES

2; Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance;

Answer: NO

3; Whether the requested area variance is substantial;

Answer: YES

4; Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

Answer: YES

5; Whether the alleged difficulty was self-created, which consideration shall be

relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

Answer: YES

Tonight the Zoning Board of Appeals will be voting on the variances aforementioned.

Note: Jeffrey Judd voted NO; He stated that he supports the idea of the project however in a residential area as it is, it would create an undesirable change that would have a substantial adverse effect on the neighborhood.

Jon Strom voted NO; He indicated that the proposed fences are undesirable in a residential area, the deer would move to the neighboring properties.

Michael Diperi voted NO; The proposed fence is for commercial purpose, it cannot be installed in a residential area.

Tom Goldsworthy voted NO; Noted that he was sympathetic to the farming project however the property is located in a residential area, very tall fencing given the size of the lot and the nature of the neighborhood would be undesirable.

Variance is denied.

6: Closed Public Hearing:

None

7: Internal Business:

Training was completed by Jon Strom and Tom Goldsworthy, certificates of attendance for 3 hours were provided.

~ Jon Strom asked for a motion to adjourn the meeting, Michael Diperi made the motion that was seconded by Jeffrey Judd and agreed upon by all members. The meeting was adjourned at 8:45.

Respectfully submitted.
Veronique Fabio.